HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 1609 OF 2007

DATED: 2.2.2007

Between:

Shankar Lal Agarwal and others

...

Petitioners

and

District Collector, Hyderabad and others

...

Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.1609 of 2007

ORAL ORDER:

The petitioners assail the proposals under the Land Acquisition Act, 1894 (for short 'the Act'), initiated for acquisition of their properties for the widening of the road from Gulzar Houz to Royal Function Hall (Alijah Kotla Road), Shaher-e-Hyderabad village and Bahadurpura Mandal of Hyderabad. The notification under Section 4 (1) of the Act is stated to have been issued and published on 2.1.2007, by invoking urgency and dispensing with the enquiry under Section 5-A of the Act, according to the learned Government Pleader for Land Acquisition.

The draft declaration under Section 6 of the Act has been issued on 15.1.2007. Earlier on 18.7.2005, the 2nd respondent-the requisitioning authority had issued notices to the petitioners under Section 146 of the Hyderabad Municipal Corporation Act, 1955 soliciting consent for handing over the property for the purpose of widening of the road with a promise that in lieu of handing over of the affected portion of the property to

the MCH, compensation for the structures and other benefits such as; relaxations in the FSI would be granted as per G.O.Ms.No. 483 MA dated 24.5.1998 and G.O.Ms.No.423 MA dated 31.7.1998, as per the provisions of the Act.

Apparently therefore, even as early as on 18.7.2005, the requisitioning authority was conscious of the need for this property for the purpose of its road widening programmes. As the petitioners were not inclined to give away the lands without compensation, the respondents ought to have taken steps for acquisition of the land. Nearly 1½ years have passed by and now urgency clause is invoked for the purpose of road widening.

Invocation of urgency is not a ritual to be invoked at will or as a foil to the indifference, lethargy or incompetence of the exeutive agencies of the State in taking timely and expeditious steps with due planning and forethought to acquire lands of citizens. The opportunity provided to an interested person, whose land is proposed for acquisition under Section 5-A of the Act, is a salutary statutory opportunity to lodge objections as to the acquisition itself. Such a right granted to a citizen cannot be subverted at will and without rational reasons.

In the context of the facts of this case, the invocation of urgency in the draft notification dated 2.1.2007 is seen to be irrational and without justification. On this premise, the draft declaration

under Section 6 of the Act dated 15.1.2007 is quashed insofar as it relates to premises bearing Nos. 22-6-1087, 22-6-3 and 22-6-3/5 (first floor), 22-6-3/6 (Cellar, 1st, 2nd and 3rd floors), Kali Kaman, Hyderabad. The respondents shall proceed to issue a notice to the petitioners, soliciting objections under Section 5-A of the Act. On the petitioners' submitting their objections within the time stipulated in the notice, the same shall be considered and a reasoned order passed thereon by the competent authority, which shall be duly communicated to the petitioners by Registered Post Acknowledgment Due. Till then, the petitioners shall not be dispossessed nor further proceedings under the Act pursued.

The writ petition is disposed of as above at the stage of admission, after hearing the learned Government Pleader for Land Acquisition also. No order as to costs.

GODA

RAGHURAM, J
Date: 2.2.2007
Note: CC by Monday.
Bo cvm